

FISCAL NOTE

Bill #: SB0357

Title: Criminal background check required before licensing social workers

Primary Sponsor: Squires, C

Status: As Introduced

Sponsor signature

Date

David Ewer, Budget Director

Date

Fiscal Summary

	<u>FY 2006</u> <u>Difference</u>	<u>FY 2007</u> <u>Difference</u>
Expenditures:		
General Fund	\$0	\$0
State Special Revenue	\$12,670	\$10,500
Revenue:		
General Fund	\$0	\$0
State Special Revenue	\$14,400	\$14,400
Net Impact on General Fund Balance:	\$0	\$0

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|---|--|
| <input type="checkbox"/> Significant Local Gov. Impact | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts |
| <input type="checkbox"/> Dedicated Revenue Form Attached | <input checked="" type="checkbox"/> Needs to be included in HB 2 |

Fiscal Analysis

ASSUMPTIONS:

Department of Labor and Industry

1. SB 357 requires an annual criminal background investigation for each new applicant, as well as annual renewing licensees. The department assumes that provisions of SB 357 do not apply to any professional licenses issued by the department other than the social worker license.
2. The department cannot readily quantify program staff or legal workload increases as a result of SB 357 since the number of applicants and licensees who have committed any of the enumerated offenses is unknown. The department assumes that workload related to denials of new applications and renewals of existing licenses is likely to be greater during the first few applications of the provisions contained in SB 357
3. While SB 357 would allow the Board of Social Worker Examiners (board) to grant a waiver of the prohibitions against licensing a person with specified criminal offenses in the person's criminal history, it does not grant the board the discretion to waive the criminal background check required for each renewal cycle. Moreover, while SB 357 allows the board to grant a waiver of the prohibitions against licensing a person with specified criminal offenses in the person's criminal history, it requires the board to exercise its

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discretion each time the person applies to renew a license. As a result, the board's workload will be increased each year to review criminal background checks for each applicant and renewing licensee. The department has no history of how many applicants have a criminal history, and thus, cannot quantify the cost of assumed workload increases.

4. The board's decision to deny a new license or renew an existing license on the basis of the provisions of SB 357 would give the applicant or licensee the right to challenge the board's decision through a formal administrative contested case proceeding, with the right to seek judicial review of that administrative proceeding. Since the department has no knowledge of how many applicants and licensees have committed any of the enumerated offenses, the department cannot quantify the costs of contested case hearings.
5. The department of justice and the federal bureau of investigation set the fingerprinting and criminal history background check fees that would be required of applicants and renewing licensees under SB 357. A full 50-state criminal background check based on fingerprints is currently \$32. Local law enforcement agencies charge between \$5 and \$20 to perform the actual fingerprinting.
6. For renewal purposes, the department could obtain an annual update reports on a "name check only" basis. A "name check only" criminal history background check is based on the subject's name, date of birth, and social security number. The "name check only" provides only Montana criminal history information. The current cost for a "name check only" is \$8.
7. The department would not pay fingerprinting, criminal history background check, or name check only update costs. Applicants and renewing licensees would make payments directly to the appropriate entity.
8. For the purpose of establishing rules, the department would hold two special board meetings and conduct an administrative rule hearing in FY 2006. Proposed rules and an adoption notice would be mailed to all licensed social work examiners and interested parties. Total costs associated with adoption of administrative rules are estimated at \$2,170 as follows: \$700 per diem (\$50 per day X 2 days X 7 board members); \$800 MAR costs (20 pages X \$40 per page); \$370 postage and mailing (500 pieces X \$0.37 X 2 mailings); and \$300 court reporter costs.
9. Website development, maintenance and database administration costs are estimated at \$500 each year of the 2007 biennium.
10. Forms development and printing costs are estimated at \$100 each year of the 2007 biennium

Department of Justice

11. The Department of Justice (DOJ), Information Technology Services Division (ITSD), Criminal Justice Services Bureau would be responsible for administering the background checks for the social workers as the state's repository.
12. The FBI under Public Law 92-544 would approve senate Bill 357.
13. Approximately 450 social workers each year would be subject to a background check.
14. State special revenue would increase by \$14,400 per year based on 450 background checks at \$32.00 each.
15. Expenditures would increase \$9,900 per year for FBI charges based on 450 background checks at \$22.00 each.

FISCAL IMPACT:

Department of Justice

	<u>FY 2006</u> <u>Difference</u>	<u>FY 2007</u> <u>Difference</u>
<u>Expenditures:</u>		
Operating Expenses	\$9,900	\$9,900

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Funding of Expenditures:

State Special Revenue (02)	\$9,900	\$9,900
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Revenues:

State Special Revenue (02)	\$14,400	\$14,400
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Department of Labor and IndustryExpenditures:

Operating Expenses	\$2,770	\$600
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Funding of Expenditures:

State Special Revenue (02)	\$2,770	\$600
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Revenues:

State Special Revenue (02)	\$0	\$0
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Total ImpactNet Impact to Fund Balance (Revenue minus Funding of Expenditures):

State Special Revenue (02)	\$1,730	\$3,900
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EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The responsibility of finger printing these individuals and sending the fingerprints to the state's repository is typically with the local law enforcement agency. The local agencies are authorized to charge a fee for this (\$5-\$20 in this state) and they also have the option of refusing to do this. Some agencies refuse due to the substantial increase in the past few years.

TECHNICAL NOTES:

1. Section 2, part (5)(c) indicates that DOJ shall forward information for offenses listed in subsection 6. All offenses should be forwarded so that the DOJ is not responsible for "modifying" rap sheets.
2. Section 2, part (5)(d) requires DOJ to destroy the fingerprint cards. All fingerprint cards should be returned to the requestor, and then destroyed, so that the DOJ is not responsible for tracking which cards get destroyed on premises, which are returned, etc. There are many different requirements for each classification of worker/entity and we need to instill some consistency in order to maintain accuracy of these records.
3. Section 2, part (6) provides an extensive list of the unacceptable offenses. While this is not necessarily an incorrect method for doing this, it can be subject to frequent change and/or challenge. The PROTECT Act utilizes phrases such as, "any sex crime", "crimes against a person", etc. This may be a more efficient way to provide for the offenses.
4. SB 357 does not explicitly address how it interacts with the provisions of Title 37, chapter 1, part 2, MCA, regarding the licensure of criminal offenders. As such, there appears to be a conflict between the provisions of SB 357 and the provisions of sections 37-1-201, 37-1-203, and 37-1-205, MCA
5. The applicability of SB 357 to renewals of an existing social worker license, to the extent that it results in the denial of the renewal of an existing license, may draw a legal challenge on the basis of violating constitution prohibitions against double jeopardy (multiple punishments for a single crime).

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